

UNITED STATES DISTRICT COURT
Northern District of California

THOMAS VER,

No. C 12-1365 MEJ

Plaintiff,

**ORDER FOR CLERK OF COURT TO
REASSIGN CASE**

v.

ALFREDO HURTADO, et al.

REPORT & RECOMMENDATION

Defendants.

On March 19, 2012, Plaintiff Thomas Ver filed the above-captioned case. Dkt. No. 1. On June 26, as there was no indication that any of the Defendants had been served, the Court vacated the case management conference scheduled for June 28 and ordered Plaintiff to file a status report by July 5. Dkt. No. 3. After Plaintiff failed to respond, the Court subsequently ordered Plaintiff to show cause why this case should not be dismissed for failure to prosecute and failure to comply with court deadlines. Dkt. No. 4. The Court ordered Plaintiff to file a responsive declaration by August 23, 2012. Plaintiff has again failed to respond. Based on this procedural history, the Court finds it appropriate to dismiss this case pursuant to Federal Rule of Civil Procedure 41(b).

Under Rule 41(b), failure to comply with a court order can warrant dismissal. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). Further, failure to follow a district court's local rules is a proper ground for dismissal. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). In "determining whether to dismiss a case for failure to comply with a court order, the district court must weigh five factors including '(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.'" *Ferdik*, 963 F.2d at 1260-61 (quoting *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986)). Here,

1 there is no indication that any Defendants have been served, Plaintiff failed to respond to the June 12
2 status order, failed to respond to the order to show cause, and has made no appearance in this matter
3 since filing her complaint. Thus, the Court finds that the *Ferdik* factors weigh in favor of dismissal.

4 Accordingly, because Plaintiff has yet to consent to the undersigned's jurisdiction, the Court
5 hereby ORDERS the Clerk of Court to reassign this case to a district court judge. The undersigned
6 RECOMMENDS that the newly-assigned judge dismiss this case for failure to prosecute and failure
7 to comply with the Court's deadlines and orders.

8 Pursuant to Federal Rule of Civil Procedure 72, any party may serve and file objections to
9 this Report and Recommendation within 14 days after being served.

10 **IT IS SO ORDERED AND RECOMMENDED.**

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12 Dated: August 28, 2012

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15 Maria-Elena James
16 Chief United States Magistrate Judge
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